111TH CONGRESS
1ST SESSION

S. 989

To amend the Public Utility Regulatory Policies Act of 1978 to promote energy independence, increase competition, democratize energy generation, and provide for the connection of certain small electric energy generation systems, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 6, 2009

Mr. MENENDEZ (for himself, Mr. LIEBERMAN, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To amend the Public Utility Regulatory Policies Act of 1978 to promote energy independence, increase competition, democratize energy generation, and provide for the connection of certain small electric energy generation systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Grid Access Act of 2009''.

SEC. 2. DEFINITION OF COMBINED HEAT AND POWER FACILITY.

Section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602) is amended by adding at the end the following:

''(22) COMBINED HEAT AND POWER FACILITY.—

''(A) IN GENERAL.—The term 'combined heat and power facility' means a facility that—

''(i) uses the same energy source for the simultaneous or sequential generation of electrical power or mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications);

''(ii) has—

''(I) an electrical capacity of not more than 10 megawatts;

''(II) a mechanical energy capacity of not more than 7,000 horsepower; or

''(III) an equivalent combination of electrical and mechanical energy capacities;

''(iii) produces at least 20 percent of the total useful energy of the facility in the form of thermal energy that is not used to produce electrical or mechanical power, or both; and

''(iv) achieves an energy efficiency of not less than 60 percent.

''(B) INCLUSIONS.—The term 'combined heat and power facility' includes—

''(i) a recovered waste energy system that produces electricity from—

''(I) exhaust heat or flared gas from any industrial process;

''(II) waste gas or industrial tail gas that would otherwise be flared, incinerated, or vented; or

''(III) a pressure drop in any gas, other than any pressure drop to a condenser that subsequently vents the resulting heat; and

''(ii) a facility that produces electricity from such other forms of waste energy, as are determined by the Secretary.''.

SEC. 3. NET METERING AND INTERCONNECTION STANDARDS.

(a) IN GENERAL.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is amended by adding at the end the following:

''(d) NET METERING.—

''(1) DEFINITIONS.—In this subsection and subsection (e):

''(A) CUSTOMER-GENERATOR.—The term 'customer-generator' means the owner or operator of a qualified generation unit.

''(B) ELECTRIC GENERATION UNIT.—The term 'electric generation unit' means—

''(i) a qualified generation unit; and

''(ii) any electric generation unit that qualifies for net metering under a net metering tariff or rule approved by a State.

''(C) LOCAL DISTRIBUTION SYSTEM.—The term 'local distribution system' means any system for the distribution of electric energy to the ultimate consumer of the electricity, whether or not the owner or operator of the system is a retail electric supplier.

''(D) NET METERING.—The term 'net metering' means the process of—

''(i) measuring the difference between the electricity supplied to a customer-generator and the electricity generated by the customer-generator that is delivered to a local distribution system at the same point of interconnection during an applicable billing period; and

''(ii) providing an energy credit to the customer-generator based on the electricity produced by the customer-generator from a qualified generation unit.

''(E) QUALIFIED GENERATION UNIT.—The term 'qualified generation unit' means an electric energy generation unit that—

''(i) is a fuel cell or microturbine or uses as the energy source of the unit solar energy, wind, biomass, geothermal energy, anaerobic digestion, or landfill gas, or a combination of the any of those sources;

''(ii) has a generating capacity of not more than 10 megawatts;

''(iii) is located on premises that are owned, operated, leased, or otherwise controlled by the customer-generator; and

''(iv) is intended to offset all or part of the requirements of the customer-generator for electric energy.

''(F) RETAIL ELECTRIC SUPPLIER.—The term 'retail electric supplier' means any electric utility that sells electric energy to the ultimate consumer of the energy.

''(2) ADOPTION.—Not later than 1 year after the date of enactment of this subsection, each State regulatory authority (with respect to each electric utility for which the State regulatory authority has ratemaking authority), and each nonregulated electric utility, shall—

''(A) provide public notice and conduct a hearing with respect to the standards established under paragraph (3); and

''(B) on the basis of the hearing, adopt the net metering standard.

''(3) ESTABLISHMENT OF NET METERING STANDARD.—

''(A) IN GENERAL.—Each retail electric supplier shall offer to arrange (either directly or through a local distribution company or other third party) to make net metering available, on a first-come, first-served basis, to each of the

retail customers of the retail electric supplier in accordance with the requirements described in subparagraph (B) and other provisions of this subsection.

''(B) REQUIREMENTS.—The requirements referred to in subparagraph (A) are, with respect to a retail electric supplier, that—

''(i) rates and charges and contract terms and conditions for the sale of electric energy to customer-generators shall be the same as the rates and charges and contract terms and conditions that would be applicable if the customer-generator did not own or operate a qualified generation unit and use a net metering system; and

''(ii) each retail electric supplier shall notify all of the retail customers of the retail electric supplier of the standard established under this paragraph as soon as practicable after the adoption of the standard.

''(C) MODIFICATIONS.—Nothing in this subsection prevents a retail electric supplier from petitioning the Commission for modifications to a standard established under this sub-

section to ensure that the equipment, services, and system of the supplier function in a safe and efficient manner.

''(4) NET ENERGY MEASUREMENT.—

''(A) IN GENERAL.—Each retail electric supplier shall arrange to provide to customer-generators who qualify for net metering under subsection (b) an electrical energy meter capable of net metering and measuring, to the maximum extent practicable, the flow of electricity to or from the customer, using a single meter and single register.

''(B) IMPRACTICABILITY.—In a case in which it is not practicable to provide a meter to a customer-generator under subparagraph (A), a retail electric supplier (either directly or through a local distribution company or other third party) shall, at the expense of the retail electric supplier, install 1 or more of those electric energy meters for the customer-generators concerned that accomplishes what the single meter described in subparagraph (A) would accomplish.

''(5) BILLING.—

"(A) IN GENERAL.—Each retail electric supplier subject to subsection (b) shall calculate the electric energy consumption for a customer using a net metering system in accordance with subparagraphs (B) through (D).

"(B) MEASUREMENT OF ELECTRICITY.—The retail electric supplier shall measure the net electricity produced or consumed during the billing period using the metering installed in accordance with paragraph (4).

"(C) BILLING AND CREDITING.—

"(i) BILLING.—If the electricity supplied by the retail electric supplier exceeds the electricity generated by the customer-generator during the billing period, the customer-generator shall be billed for the net electric energy supplied by the retail electric supplier in accordance with normal billing practices.

"(ii) CREDITING.—

"(I) IN GENERAL.—If electric energy generated by the customer-generator exceeds the electric energy supplied by the retail electric supplier during the billing period, the cus-

tomer-generator shall be billed for the appropriate customer charges for that billing period and credited for the excess electric energy generated during the billing period, with the credit appearing as a kilowatt-hour credit on the bill for the following billing period.

''(II) APPLICATION OF CREDITS.—Any kilowatt-hour credits provided to a customer-generator under this clause shall be applied to customer-generator electric energy consumption on the following billing period bill (except for a billing period that ends in the next calendar year).

''(III) CARRYOVER OF UNUSED CREDITS.—Not later than 180 days after the date of enactment of this subsection, the Commission shall promulgate a rule establishing procedures for carrying over unused credits from the preceding year.

''(D) USE OF TIME-DIFFERENTIATED RATES.—

"(i) IN GENERAL.—Except as provided in clause (ii), if a customer-generator is using a meter and retail billing arrangement that has time-differentiated rates—

"(I) the kilowatt-hour credit shall be based on the ratio representing the difference in retail rates for each time-of-use rate; or

"(II) the credits shall be reflected on the bill of the customer-generator as a monetary credit reflecting retail rates at the time of generation of the electric energy by the customer-generator.

"(ii) DIFFERENT TARIFFS OR SERVICES.—A retail electric supplier shall offer a customer-generator the choice of a time-differentiated energy tariff rate or a nontime-differentiated energy tariff rate, if the retail electric supplier offers the choice to customers in the same rate class as the customer-generator.

"(6) PERCENT LIMITATION.—

"(A) IN GENERAL.—The standard established under this subsection shall not apply for

a calendar year in the case of a customer-generator served by a local distribution company if the total generating capacity of all customer-generators with net metering systems served by the local distribution company in the calendar year is equal to or more than 4 percent of the capacity necessary to meet the average forecasted aggregate customer peak demand of the company for the calendar year.

''(B) RECORDS AND NOTICE.—

''(i) RECORDS.—Each retail electric supplier shall maintain, and make available to the public, records of—

''(I) the total generating capacity of customer-generators of the system of the retail electric supplier that are using net metering; and

''(II) the type of generating systems and energy source used by the electric generating systems used by the customer-generators.

''(ii) NOTICE.—Each such retail electric supplier shall notify the State regulatory authority and the Commission at each time at which the total generating ca-

pacity of the customer-generators of the retail electric supplier reaches a level that equals or exceeds—

"(I) 75 percent of the limitation specified in subparagraph (A); or

"(II) the limitation specified in subparagraph (A).

"(7) OWNERSHIP OF CREDITS.—

"(A) IN GENERAL.—For purposes of Federal and State laws providing renewable energy credits or greenhouse gas credits, a customer-generator with a qualified generation unit and net metering shall be treated as owning and having title to the renewable energy attributes, renewable energy credits and greenhouse gas emission credits relating to any electricity produced by the qualified generation unit.

"(B) RETAIL ELECTRIC SUPPLIERS.—No retail electric supplier shall claim title to or ownership of any renewable energy attributes, renewable energy credits, or greenhouse gas emission credits of a customer-generator as a result of interconnecting the customer-generator or providing or offering the customer-generator net metering.

''(8) SAFETY AND PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—A qualified generation unit and net metering system used by a customer-generator shall meet all applicable safety and performance and reliability standards established under the interconnection standards required under subsection (e).

''(B) ADDITIONAL CHARGES.—After consultation with State regulatory authorities and nonregulated local distribution systems and notice and opportunity for comment, the Commission shall prohibit by regulation the imposition of additional charges by retail electric suppliers and local distribution systems for equipment or services for safety or performance that are in addition to the charges required under subsection (e).

''(9) DETERMINATION OF COMPLIANCE.—

''(A) IN GENERAL.—Any State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority), and each nonregulated electric utility, may apply to the Commission for a determination

that any State net metering requirement or regulations complies with this subsection.

''(B) ORDERS.—In the absence of a determination under subparagraph (A), the Commission, on the motion of the Commission or pursuant to the petition of any interested person, may, after notice and opportunity for a hearing on the record, issue an order requiring against any retail electric supplier or local distribution company to require compliance with this subsection.

''(e) INTERCONNECTION STANDARDS.—

''(1) MODEL STANDARDS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Commission shall publish model standards for the physical connection between local distribution systems and qualified generation units and electric generation units that are—

''(i) qualified generation units (as defined in subsection (d)(1)(E) (other than clause (ii) of subsection (d)(1)(E))); or

''(ii) combined heat and power facilities.

''(B) PURPOSES.—The model standards shall be designed to—

''(i) encourage the use of qualified generation units and combined heat and power facilities; and

''(ii) ensure the safety and reliability of the qualified generation units and the local distribution systems interconnected with the qualified generation units.

''(C) EXPEDITED PROCEDURES.—

''(i) IN GENERAL.—The model standards shall have separate expedited procedures, including—

''(I) a standard for interconnecting qualified generation units, and combined heat and power facilities, of not more than 15 kilowatts;

''(II) a separate standard that expedites interconnection for qualified generation units, and combined heat and power facilities, of more than 15 kilowatts but not more than 10 megawatts; and

''(III) a separate standard that expedites interconnection for qualified

generation units, and combined heat and power facilities, of more than 15 kilowatts but not more than 10 megawatts that do not export energy past the point of interconnection.

''(ii) BEST PRACTICES.—The expedited procedures shall be based on the best practices that have been used in States that have adopted interconnection standards.

''(iii) MODEL RULE.—

''(I) IN GENERAL.—In designing the expedited procedures, the Commission shall consider Interstate Renewable Energy Council Model Rule MR–I2005.

''(II) OTHER GENERATORS.—Nothing in this subsection precludes the Commission from adopting or enforcing interconnection requirements for generators that are not qualified generation units.

''(D) ADOPTION OF STANDARDS.—

"(i) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, each State shall—

"(I) adopt the model standards established under this paragraph, with or without modification; and

"(II) submit the standards to the Commission for approval.

"(ii) APPROVAL OF MODIFICATION.—The Commission shall approve a modification of the model standards only if the Commission determines that the modification is—

"(I) consistent with or superior to the purpose of the standards; and

"(II) required by reason of local conditions.

"(E) NONAPPROVAL OF STANDARDS FOR A STATE.—If standards have not been approved under this paragraph by the Commission for any State during the 2-year period beginning on the date of enactment of this subsection, the Commission shall, by rule or order, enforce the model standards of the Commission in the State

until such time as State standards are approved by the Commission.

''(F) UPDATES.—

''(i) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection and after notice and opportunity for comment, the Commission shall publish an update of the model standards, after considering changes in the underlying standards and technologies.

''(ii) AVAILABILITY.—The updates shall be made available to State regulatory authorities for the consideration of the authorities.

''(2) SAFETY, RELIABILITY, PERFORMANCE, AND COST.—

''(A) IN GENERAL.—The standards under this subsection shall establish such measures for the safety and reliability of the affected equipment and local distribution systems as are appropriate.

''(B) ADMINISTRATION.—The standards shall—

"(i) be consistent with all applicable safety and performance standards established by—

"(I) the national electrical code;

"(II) the Institute of Electrical and Electronics Engineers;

"(III) Underwriters Laboratories; and

"(IV) the American National Standards Institute; and

"(ii) impose not more than such minimum cost and technical burdens to the interconnecting customer generator as the Commission determines, by rule, are practicable.

"(3) ADDITIONAL CHARGES.—The model standards under this subsection shall prohibit the imposition of additional charges by local distribution systems for equipment or services for interconnection that are in excess of—

"(A) the charges necessary to meet the standards; and

"(B) the charges and equipment requirements identified in the best practices of States with interconnection standards.

''(4) RELATIONSHIP TO EXISTING LAW REGARDING INTERCONNECTION.—Nothing in this subsection affects the application of section 111(d)(15) relating to interconnection.

''(5) CONSUMER-FRIENDLY CONTRACTS.—

''(A) IN GENERAL.—The Commission shall—

''(i) promulgate regulations that ensure that simplified contracts will be used for the interconnection of electric energy by electric energy transmission or local distribution systems and generating facilities that have a power production capacity of not greater than 10 megawatts; and

''(ii) consider the best practices for consumer-friendly contracts that are used by States or national associations of State regulators.

''(B) LIABILITY OR INSURANCE.—The contracts shall not require liability or other insurance in excess of the liability or insurance that is typically carried by customer-generators for general liability.''.

(b) CONFORMING AMENDMENT.—Section 1262 of the Public Utility Holding Company Act of 2005 (42 U.S.C.

16451) is amended by striking paragraph (5) and inserting the following:

"(5) ELECTRIC UTILITY COMPANY.—

"(A) IN GENERAL.—The term 'electric utility company' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

"(B) EXCLUSION.—The term 'electric utility company' does not include an electric generation unit (as defined in section 113(d) of the Public Utility Regulatory Policies Act of 1978).".

SEC. 4. IMPROVED SITING FOR COMBINED HEAT AND POWER FACILITIES.

(a) IN GENERAL.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(20) IMPROVED SITING FOR COMBINED HEAT AND POWER FACILITIES.—

"(A) DISTRIBUTION LINES.—Notwithstanding any State or local law (including regulations) that restrict independent power producers from siting private power lines (including a law that allows only a regulated electric

utility company to site electric power lines across public rights-of-way), each electric utility shall allow a combined heat and power facility to site distribution lines on and across public rights-of-way for the purpose of interconnecting with contiguous end use customers.

''(B) CONTIGUOUS END USE CUSTOMERS.—For purposes of this paragraph, an end use customer shall be considered to be contiguous to a combined heat and power facility if the end use customer—

''(i) is located on—

''(I) the same property as the combined heat and power facility; or

''(II) property immediately adjacent to the combined heat and power facility; or

''(ii) in the case of an end-use customer that purchases useful thermal output from the combined heat and power facility, is otherwise separated by an easement, public thoroughfare, or transportation or utility-owned right-of-way.''.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

''(7) IMPROVED SITING FOR COMBINED HEAT AND POWER FACILITIES.—

''(A) COMMENCEMENT.—Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State regulatory authority has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for the consideration, with respect to each standard established by paragraph (20) of section 111(d).

''(B) COMPLETION.—Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State regulatory authority has ratemaking authority) and each nonregulated electric utility shall complete the consideration, and shall make the determination, referred to in section 111 with re-

spect to each standard established by paragraph (20) of section 111(d).''.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended—

(i) by designating the first through fifth sentences as paragraphs (1) through (5), respectively; and

(ii) by adding at the end the following:

''(6) IMPROVED SITING FOR COMBINED HEAT AND POWER FACILITIES.—In the case of each standard established by paragraph (20) of section 111(d), the reference in paragraph (1) to the date of enactment of this Act shall be considered to be a reference to the date of enactment of that paragraph (20).''.

(B) TECHNICAL CORRECTION.—

(i) IN GENERAL.—Section 1254(b)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 971) is amended by striking ''Section 112(d)'' and inserting ''Section 112(c)''.

(ii) EFFECTIVE DATE.—The amendment made by clause (i) takes effect on August 8, 2005.

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

''(g) PRIOR STATE ACTIONS FOR IMPROVED SITING FOR COMBINED HEAT AND POWER FACILITIES.—Subsections (b) and (c) shall not apply to the standards established by paragraph (20) of section 111(d) in the case of any electric utility in a State if, before the date of enactment of this subsection—

''(1) the State has implemented for the electric utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for the State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for the electric utility; or

''(3) the State legislature has voted on the implementation of the standard (or a comparable standard) for the electric utility.''.

(B) CROSS-REFERENCE.—Section 124 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2634) is amended—

(i) by designating the first through fifth sentences as subsections (a) through (e), respectively; and

(ii) by adding at the end the following:

''(f) IMPROVED SITING FOR COMBINED HEAT AND POWER FACILITIES.—In the case of each standard established by paragraph (20) of section 111(d), each reference in subsections (a) and (b) to the date of enactment of this Act shall be considered to be a reference to the date of enactment of that paragraph (20).''.

SEC. 5. ENERGY TARIFFS.

(a) IN GENERAL.—Subtitle B of title I of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621 et seq.) is amended by adding at the end the following:

''SEC. 118. ENERGY TARIFFS.

''(a) DEFINITIONS.—In this section:

''(1) CLEAN DISTRIBUTED ENERGY RESOURCE.—

''(A) IN GENERAL.—The term 'clean distributed energy resource' means a combined heat and power facility or a qualified generation

unit (as defined in section 113(d)(1)) that is used by a facility to generate electricity.

"(B) INCLUSIONS.—The term 'clean distributed energy resource' includes a renewable energy system that is not eligible for net metering under section 113.

"(2) COVERED FACILITY.—The term 'covered facility' means a customer facility that uses electricity produced from a clean distributed energy resource.

"(3) ELECTRIC UTILITY REGULATORY ENTITY.—

"(A) IN GENERAL.—The term 'electric utility regulatory entity' means a State or local governing body that is responsible for the regulation of electric utilities that provide retail electrical power.

"(B) INCLUSIONS.—The term 'electric utility regulatory entity' includes—

"(i) an investor-owned utility;

"(ii) a municipal utility;

"(iii) an electric membership cooperative; and

"(iv) a State power authority.

''(4) EXCESS POWER.—The term 'excess power' means the quantity of electricity produced by a clean distributed energy resource that is in excess of the electrical requirements of a covered facility.

''(5) SUPPLEMENTAL POWER.—The term 'supplemental power' mean the quantity of electricity required by a covered facility that exceeds the quantity of electricity produced by clean distributed energy resources that is available to the covered facility.

''(b) ESTABLISHMENT OF TARIFFS.—Not later than 2 years after the date of enactment of this section, each electric utility regulatory entity shall establish a tariff for electricity produced by clean distributed energy resources that provides for the efficient and effective use of clean distributed energy resources by covered facilities in accordance with this section.

''(c) TARIFF REQUIREMENTS.—

''(1) SUPPLEMENTAL POWER.—The tariffs shall establish rates for supplemental power provided to covered facilities that are consistent with the rates charged for supplemental power by customer facilities that do not use clean distributed energy resources.

''(2) BACKUP POWER.—

''(A) IN GENERAL.—The tariffs shall establish rates for backup power provided to covered facilities that reflect the actual cost of providing backup power to the covered facilities.

''(B) APPLICABILITY.—Subparagraph (A) shall not apply to a case in which backup power is available through a wholesale market tariff.

''(3) STANDBY POWER.—

''(A) IN GENERAL.—The tariffs shall establish rates for standby power provided to covered facilities that reflect the actual cost of providing standby power to the covered facilities.

''(B) EXISTING STANDBY POWER RULES.—If a Regional Transmission Organization or Independent System Operator has standby power rules in effect on the date of enactment of this section and the clean distributed energy resource has access to standby power, the rules shall apply in the event of a conflict with this section.

''(C) FIRM BACKUP SERVICE.—Standby power provided under this paragraph shall reserve capacity on transmission and distribution systems for the delivery of firm backup service to covered facilities.

''(4) FIRM BACKUP SERVICE.—The tariffs shall ensure that covered facilities are provided with a right to purchase a firm supply of electrical power and energy if the generating facilities of the covered facilities are not in operation or are operating at less than full capacity.

''(5) EXCESS POWER.—

''(A) IN GENERAL.—The tariffs shall require electric utilities to purchase excess power produced by covered facilities at a rate that is equal to at least 85 percent of the cost of electrical power to the electric utilities from the most efficient electric-only power plants.

''(B) EXISTING EXCESS POWER RULES.—If a Regional Transmission Organization or Independent System Operators has excess power rules in effect on the date of enactment of this section, the rules shall apply in the event of a conflict with this section.

''(6) PUBLIC AVAILABILITY.—An electric utility shall make the tariffs available to the customers of the utility and the public.

''(d) BILATERAL TARIFF AGREEMENTS.—Nothing in this section—

''(1) restricts an electric utility from entering into a bilateral tariff agreement with a customer; or

''(2) requires that any tariffs provided under the agreement be made public.

''(e) REPORTS.—Each electric utility regulatory entity shall submit to the Secretary—

''(1) a report on the establishment of tariffs in accordance with this section; and

''(2) annual reports that include a description of—

''(A) the number of customers that make use of the tariffs; and

''(B) the quantity of excess power that is sold to electric utilities under the tariffs.

''(f) REGULATIONS.—Not later than 120 days after the date of enactment of this section, the Secretary shall promulgate such regulations as are necessary to carry out this section.''.

SEC. 6. RELATIONSHIP TO STATE LAW.

Section 117(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2627(b)) is amended—

(1) by striking ''Nothing'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing''; and

(2) by adding at the end the following:

''(2) NET METERING AND INTERCONNECTION STANDARDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), no State or nonregulated utility may adopt or enforce any standard or requirement concerning net metering or interconnection that restricts access to the electric power transmission or local distribution system by qualified generators beyond those standards and requirements established under section 113.

''(B) EQUIVALENT OR GREATER ACCESS.—Nothing in this Act precludes a State from adopting or enforcing incentives or requirements to encourage qualified generation and net metering that—

''(i) are in addition to or equivalent to incentives or requirements under section 113; or

''(ii) afford greater access to the electric power transmission and local distribution systems by qualified generation units (as defined in section 113(d)(1)) or afford greater compensation or credit for elec-

tricity generated by the qualified generation units.''.

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